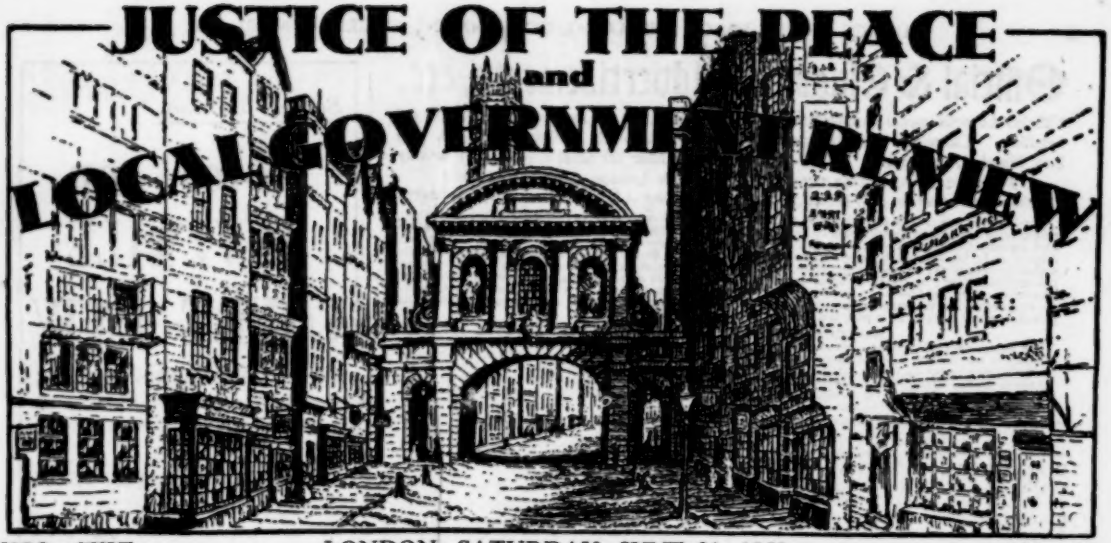

VOL. CXVI LONDON SATURDAY, JUNE 21, 1952 No. 25

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, Police Officers and Social Workers are excepted from the provisions of the Order, as is employment in a managerial, professional, administrative or executive capacity.

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BOROUGH OF HIGH WYCOMBE

Appointment of Legal Assistant

APPLICATIONS are invited for the appointment of a Legal Assistant in my department at a salary in accordance with Grade A.P.T. IV (£530-£575). Applicants should have experience in conveyancing and general legal work, and Local Government experience is desirable but not essential. Applications, giving particulars of age, qualifications and experience, and the names and addresses of two referees, should reach me by not later than July 1, 1952. Housing accommodation will be provided if required.

P. B. BEECROFT,
Town Clerk.

Municipal Offices,
High Wycombe,
June 11, 1952.

BOROUGH OF LUTON

Appointment of Second Assistant to the Clerk to the Justices

APPLICATIONS are invited for the above appointment ; salary £570—£620. Pension scheme and N.J.C. conditions apply. Candidates must have a sound knowledge of, and extensive experience in, the duties of a Magistrates' Clerk's office, and be competent to take courts frequently.

Applications, in candidate's own handwriting, giving age, particulars of present duties and previous experience, together with copies of two recent testimonials, should reach me not later than July 9, 1952. Canvassing will disqualify.

WILLIAM H. STAPLEY,
Deputy Clerk to the Justices.

14, Upper George Street,
Luton, Beds.

URBAN DISTRICT OF RUISLIP-NORTHWOOD

APPLICATIONS are invited for the appointment of Assistant Solicitor. Applicants must have a sound knowledge of Conveyancing (including Land Registry Practice) and Police and County Court procedure. Salary according to experience and date of admission, within A.P.T. Va—VII (£630—£790 per annum, including London " Weighting ").

Applications will be considered from gentlemen who have presented themselves for the June Final Examinations.

Superannuable post, subject to medical examination. N.J.C. service conditions apply. The person appointed must devote his whole time to duties of the office and must not engage in private practice. Housing accommodation available.

Application forms obtainable from the undersigned, to whom they should be returned with the names of three referees, and endorsed " Appointment of Assistant Solicitor," not later than closing date, July 5, 1952. Canvassing will disqualify.

EDWARD S. SAYWELL,
Clerk of the Council.

Council Offices,
Northwood, Middlesex.
June, 1952.

YORKSHIRE OUSE RIVER BOARD

Appointment of Senior Legal Assistant

APPLICATIONS are invited from solicitors for the appointment of Senior Legal Assistant in the office of the Clerk and Solicitor to the Board. Salary £870 per annum rising to £1,000 in accordance with Grade X of the National Joint Council's Scales.

The person appointed will not be permitted to engage in private practice nor to hold any other appointment.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937.

Applications, on forms which (with terms and conditions of the appointment) will be supplied on receipt of a stamped addressed foolscap envelope, should reach the undersigned not later than Friday, July 4, 1952, marked " Senior Legal Assistant."

A. W. WOOD,
Clerk and Solicitor to the Board.

21, Park Square South,
Leeds, 1.
June 21, 1952.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVI. No. 25. LONDON : SATURDAY, JUNE 21, 1952

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NOTES of the WEEK

English and Scots Law

It is fairly well known that Scots law differs in many respects from English, and indeed may have to be the subject of expert evidence before an English court. It is both interesting and instructive to compare the two systems in relation to criminal law and procedure. There are some respects in which, in the opinion of many English people, we might imitate Scottish procedure.

A recent trial in the High Court in Glasgow illustrates some points of difference. According to a report in *The Scotsman*, the jury consisted of eight men and seven women, who brought in not a unanimous verdict but a majority verdict. In respect of one charge the jury brought in a verdict of " not proven," this being by direction of the learned judge. Another charge, of attempting to conspire to defraud, was described by him as an unusual one in the law of Scotland. One witness was described as having been twice convicted of reset, which we believe means, in Scots law, receiving stolen property. Pointing out that upon one charge there was only one witness, the learned judge observed that in the law of Scotland, one witness was not sufficient to convict, and accordingly he directed the jury to acquit the prisoners, either by finding them not guilty or the charge not proven.

English people sometimes ask what is the effect of a verdict of " not proven," and whether after such a verdict the defendant could be again brought before a court if further evidence should be forthcoming. Evidently the answer is that he could not, as the judge referred to such a verdict as if it were an acquittal. If it be asked what is the value of two different verdicts amounting to acquittal we should suggest that in Scotland a verdict of not guilty would seem to indicate that the jury was really satisfied of the defendant's innocence, whereas a verdict of " not proven " would, like the English verdict of " not guilty," mean no more than that the charge had not been proved to their satisfaction.

Discretion as to Punishment

In matters of punishment and treatment of offenders, justices have in general the widest discretion, and where discretion is judicially exercised its exercise is not often called in question. There are, however, magistrates who feel that in some respects they are not given a sufficient discretion. This applies in particular to compulsory disqualifications under the Road Traffic Acts, and magistrates are sometimes heard to say that if they are considered competent to deal with these cases at all they ought to be considered also qualified to decide who ought and who ought not to be disqualified from driving.

Such magistrates are entitled to their opinion and equally entitled to make representations in the hope that the law may be altered, but while the law remains as it is they are bound in duty and in law to give effect to it in accordance with principles laid down by the High Court. We are all familar with a series of decisions on the nature of " special reasons " for not disqualifying a driver where disqualification is ordinarily obligatory.

A somewhat similar matter is the general requirement that a defendant convicted of an offence against s. 7 of the Road Traffic Act, 1930 (driving when disqualified, etc.), must be sent to prison. That section, by subs. (4) provides that an offender is to be liable on summary conviction " to imprisonment for a term not exceeding six months or if the court think that, having regard to the special circumstances of the case, a fine would be an adequate punishment for the offence, to a fine not exceeding £50, or to both such imprisonment and such fine . . . "

In a recent case before the Divisional Court justices were severely criticized by the Lord Chief Justice for the way in which they had dealt with an offence against s. 7. The man had been fined £1 for driving while disqualified, and was also fined in respect of two other offences, his disqualification being extended for twelve months. In the course of his judgment Lord Goddard observed that Parliament had prescribed imprisonment not exceeding six months unless there were special circumstances. He described the present case as one with special circumstances of aggravation : the man had driven five days after another bench had refused to restore his licence. A more flagrant disobedience of a court order it would be difficult to imagine. To impose a fine for such an offence, said Lord Goddard, was making the law a farce. The case must go back to the justices with a direction that they had no option but to impose imprisonment. But in view of the time that had elapsed it might be thought a nominal sentence would suffice.

No doubt the justices may have felt sorry for the defendant for some reason, but that could not relieve them of the duty to pass a sentence of imprisonment in the absence of special circumstances. The High Court has left no room for doubt as to its attitude in dealing with special reasons and special circumstances. The word " special " must not be loosely interpreted and the law must be administered even when it is an unpleasant duty.

Husband and Wife " Residing Together "

If the decision in *Curtin* v. *Curtin*, *ante*, p. 345, should seem to show that the law worked hardly against the wife, the position is certainly not as unfortunate as it might appear to be.

Lord Goddard, C.J., began his judgment by saying that if the court could see its way to uphold the order of the justices it would do so. Having proceeded to show why the decision of the justices could not stand, he concluded his judgment (*see* 1 All E.R. 1349) : " The wife is not without remedy. She can either take proceedings in the Divorce Court or she can tell the husband to go. If he does not go, he will put himself at once in the wrong, and she can again go the justices, and, I have no doubt, get another order . . . "

The Salary of the Assistant

Our note at p. 335, *ante*, was, as appeared in the first paragraph, based on a newspaper report, and not on a transcript of shorthand notes of the proceedings. We have received further details from an authoritative source, which put a rather different complexion on the matter.

It appears that it was not the contention of the corporation at any time that they were not liable to pay a salary which was part of the clerks' salary, but the hearing of the application to the Divisional Court was *ex parte*, the corporation not being represented, and it may be that such a case was put forward by the applicants.

Our informant tells us that the view of the corporation was that the present salary which is being paid to these clerical assistants is in keeping with the salaries paid to other officers of the corporation and that no increase was justified, and they further took the view that there was no appeal on the matter to the Home Secretary.

Possibly that was really the view that the applicants challenged.

The McNaghten Rules

In announcing the dismissal of an appeal against conviction of murder (*R.* v. *Windle*, *The Times*, May 13), the Lord Chief Justice made an important pronouncement upon the application of the McNaghten Rules of 1843 as to insanity as a defence to a criminal charge. In those Rules there is a reference to a state of mind in which the accused, even though he knew the nature and quality of his act, did not know it was wrong. The word " wrong " has sometimes been interpreted by writers as meaning wrong morally. This has now been decided by the Court of Criminal Appeal to be a false interpretation.

Lord Goddard said that the appellant in this case knew perfectly well that he was doing that which the law forbade, though it might well be that, in the misery in which he had been living he thought it would be better that his wife should be out of the world, and that it would be kind to put her out of her suffering.

The question in all these cases was one of responsibility. A man might be suffering from a defect of reason, but if he knew that what he was doing was wrong, by which was meant wrong in law, he was responsible.

It was argued that " wrong " did not mean contrary to law but had a more qualified meaning, and that if a person had such a defective reason that, although he knew that a thing was wrong in law, he thought that it was beneficial, that would excuse him. Courts of law could only distinguish between that which was in accordance with the law and that which was contrary to it. The law could not embark on an inquiry as to whether an act was morally right or wrong. In the opinion of the Court there was no doubt that in the McNaghten rules " wrong " meant contrary to the law, and did not have a further meaning of wrong according to the view of one man or a number of people, large or small, that a particular act might be justified.

Weights and Measures Inspection in London

Mr. R. J. B. McDowell, chief officer of the Public Control Department, of the London County Council, gives figures in his report showing what an immense amount of work is carried out by the Council's inspectors of weights and measures and coal officers.

Last year more than 1,200,000 weighing and measuring appliances were verified, and of this number 48,000 (or four *per cent.*) were found to be incorrect. On their visits to shops, factories, wharves, petrol service stations, coal wharves, public houses and other places, the inspectors examined about 550,000 appliances being used for trade and found 20,018 (or four *per cent.*) to be incorrect.

Details are given of some fraudulent practices, but these are evidently not widespread. The report states :

" In the main, however, good weight or measure is given. Most traders are honest and value a reputation for fair dealing, but there are exceptions and the inspectors must keep an alert eye for malpractices and for what is more common—errors due to carelessness or negligence."

In relation to articles of food coming within the provisions of the Sale of Food (Weights and Measures) Act, 1926, the Bread Order, 1951, and the Pre-packed Food (Weights and Measures : Marking) Order, 1950, 376,707 articles, mainly of common consumption, were examined and about one article in fourteen was found to be short of weight or measure or not to comply with statutory requirements as to labelling, etc. By far the greater number of the shortages were attributable to lack of care and only a very small part to a deliberate act.

As to coal and coke, it was found that such deficiencies in weight as came to light were generally due to carelessness or negligence in weighing.

On the whole the position in the County of London seems to be satisfactory, and here as elsewhere it is clear that honest traders are glad of the assistance the inspectors can offer them, realising that it is to their own advantage as well as that of their customers that these inspections, tests and verifications should take place.

Defamation and Denial

Some years ago, speaking about defamation, we remarked in an article upon the fact that English law treated a man's reputation as a piece of property, and cared nothing for his feelings, so far as civil proceedings were concerned. Although the publishing of written matter which wounds the feelings or is offensive to a person's self-esteem, and is also calculated to bring a man into hatred, contempt, or ridicule can be made the basis of an action, the remedy is usually valueless, however false the statements, unless he can show some loss to which a money value can be attached. It is possibly persons exercising public functions (and especially officials) who suffer most from this, and the Defamation Bill now before Parliament—despite its virtues—does nothing to make their position happier in this respect. We are prompted to return to the topic by three episodes which occurred simultaneously in the middle of May. The world, or at least the world of the North Atlantic Treaty, has been shocked by publication in *Le Monde* (which is far from being an irresponsible journal) of what purported to be confidential information from a high American source about the prospects of a third world war. *Le Monde* apparently got its information from a person it believed to be impeccable, and he in turn claimed that it had come to him through reliable channels. An English newspaper has had to pay substantial damages for saying, in an article on doping racehorses, that a certain trainer had been " warned off," when in fact he had had only his licence withdrawn : *Collins* v. *Kemsley Newspapers, Ltd.*, (*The Times*, May 13). The difference is fundamental in the eyes of racing men, but means nothing to the average member of the public ; probably the writer of the paragraph did not know the difference. It was right that the newspaper should have to pay, for the plaintiff had suffered a plain injury, susceptible of money valuation. Much more serious in a public sense was a statement about Osborne printed as a display headline across the front page of a London newspaper, on May 12, in the column below which it was stated that the Queen, in order that she

might have a residence in the Isle of Wight for Cowes Week, had *inter alia* asked the War Office whether other accommodation could be found for the service convalescents for whom Osborne has been used since Queen Victoria's death. For those who know the history of Osborne ; its statutory position, and the fact that it is not managed by the War Office, the story bore within itself sufficient evidence of untruth, even before its being officially denied. But the average reader would have been deceived, and such a story, splashed as it was in headlines, probably travelled round the globe ahead of the denial—which, in formal language and three lines of small print in next day's newspapers, would never catch it up. (So far as we could trace—and we made a conscientious effort—the denial was not printed at all by the offending newspaper.) The story, repeated by persons hostile to this country, at home or in other countries, is still capable of doing untold mischief.

To print it in the first place was sheer irresponsibility, worse in one sense than the acceptance by *Le Monde* of what appeared to be a documented tale of American preparations and forebodings. The point we are making is that the English law of defamation should be rounded off, by a provision entitling the person affected by an untrue statement in a newspaper—be that person the Sovereign, or a trainer of horses, or a borough engineer—to demand that the offending newspaper shall publish a denial, or if need be a statement of true facts, upon satisfying (let us say) a judge in chambers that the published statement is untrue. A panel could be constituted from the bodies, professional and proprietary, within the journalistic field, to which panel could be referred the exact terms of any refutation ordered by the judge ; the essential point is that at least equal prominence must be given to the refutation as to the offending statement. *Le Monde* has suffered gravely in prestige, as is shown by subsequent resignations from its staff and exposure of the source of what it published. *Kemsley Newspapers, Ltd.*, have had to pay money damages for their reporter's carelessness or ignorance of racing technicalities in regard to Mr. Collins ; but we doubt whether the paper which printed the *canard* about Her Majesty and Osborne has suffered in any way at all.

Even the risk of having to pay money damages is not much of a deterrent to the wealthy companies owning some sensational newspapers, and where, as in the case of many untrue statements about public persons in their public capacity, even that risk is absent, there is at present no great inducement for not printing falsehoods. The remedy we have here suggested might provide such an inducement.

Transfer of Housing Licences

Whenever a local authority is concerned in a matter requiring some balance of considerations within and outside the boundary of its own administrative area there is a tendency for the scales to be tipped too heavily in favour of internal considerations. This is not necessarily to be deplored, especially where an aggrieved person has a right of appeal, objection, representation, or similar, to some arbitral source provided by Parliament, though such a right ought not to be allowed to harshen or modify a decision in the first instance ; the endeavour should be to reach a decision which will withstand reasonable test from any direction. The absence of such a right may produce two extreme consequences, either a decision defective from want of impulsion to greater care in the collation, assimilation and use of all relevant information, or an excellent demonstration of a high measure of intelligent exertion, broad view and sagacious judgment inspired by knowledge of final responsibility. Being human institutions, local authorities are bound to exhibit as many shadings between those extremes in connexion with the transfer of private house-building licences as there are variations of circumstances between the thousand or so local government areas involved.

Apparently, representations have been made to the Minister of Housing and Local Government for removal of the existing discretion of local authorities to issue or refuse to accept a transferable licence to build subject, presumably, to limitation within local quotas which, in the aggregate, are largely dictated by Governmental economic policy. So clean a sweep of discretion is undesirable for a number of reasons beyond those of depriving the central Government of executants of policy who are at any rate less exclusively interested in financial gain than the building industry, and of maintaining local responsibility for the management of local affairs in the light of local circumstances. Until better equilibrium is attained between this country's internal spending power and international purchasing power there must be a check on excess in various forms of economic activity, including housing, and many local authorities have valiantly acted as a brake against over-spending, which would be relaxed if they issued or accepted transferable building licences promiscuously.

Refusal to issue a transferable licence may be harder to justify than refusal to accept. People should be as free as possible to leave a particular area even from purely personal preference, though one can appreciate the antipathy of a local authority to surrender of potential rateable value, notably where local services adequate for additional population have already been provided by capital outlay giving rise to rate burdens in excess of immediate necessities. Less account should be taken of an extraneous factor such as removal of actual and prospective customers of local traders ; after all, trade ought to follow people rather than the habits of people be canalized for the benefit of trade.

Refusal to accept a transferable licence may emanate from a greater complexity of reasons than does refusal to issue, but be mainly concentrated on that of obviating undue inroads into local facilities for local people. An overload on local building resources must lead to delay, frustration of hopes, and an artificial boomlet raising prices, which is ultimately bad for everybody. At the same time, an allegation that resources are idle in circumstances propitious for their use ought to be investigated, as no doubt would be done on behalf of the Minister of Housing and Local Government if a specific case was brought to his notice and he was satisfied that a local authority appeared to have adopted a negative attitude for inadequate or erroneous reasons. It is difficult to imagine that local authorities over a wide area would be so impervious to ministerial representations as to seriously hamper practicable provision of housing where it is necessary and proper. Until that unlikely contingency clearly matures the motives behind an attempt to dispossess local authorities of discretion to issue or refuse to accept transferable house-building licences should be viewed with scepticism.

The County Councils' Association Annual Report

The annual report of the Executive Committee of the County Councils' Association which was submitted to the Association at its annual meeting on May 28 shows that there has been no diminution in the work which the association, in common with the other associations of local authorities, is continuously undertaking on behalf of their constitutent bodies. Those who represent the local authorities on these associations are not only called upon to attend many meetings of the association but also spend considerable time on other bodies on which the association is represented, particularly those concerning the settlement of wages and conditions of service of local authority employees.

The report is divided under the headings of Agriculture, Children and Welfare, Civil Defence, Education, Fire, Highways, Local Authorities Staffs, Local Government Finance, Local Government Reform, Manpower, Planning, Police, Public Health, and Housing. Under the section dealing with Children and Welfare, it is noted that matters affecting the welfare of old people received considerable attention, and in particular that of "an intermediate class of old people who either cannot be adequately cared for at home or who need medical attention outside the scope of the care and attention provided by welfare authorities under the National Assistance Act, and yet who are not so ill as to justify admission to or retention in hospital." As we have said before, this is undoubtedly a blot on the administration of our health and welfare services, and we trust therefore that the council is not being too optimistic in hoping that "before long a solution may be found which will ensure that such old people do not suffer from fears of insecurity and the deficiency of attention which would result from a wrangle between the government departments and local authorities over financial or other responsibility."

On Civil Defence it is regretted that there has, as yet, been no decision as to the final basis of government grant. The lack of response to the recruitment campaign for the Auxiliary Fire Service, moved one county council to invite the association to make representations with a view to legislation being introduced applying some measure of compulsion in all branches of civil defence training. We are glad the association decided to take no action in that direction.

In the large section dealing with Education it is mentioned that discussion took place on the cost of education of inmates in prisons and of children in hospitals and sanatoria when the Prison Commissioners were asked to bear the cost of education in prisons.

The Association has for some time been concerned with the subject of "Children and the Cinema." We think quite rightly, objection was raised to a proposal that unaccompanied children should be entitled to admission to "A" films. Later, it was agreed to set up, in co-operation with the British Board of Film Censors, a Cinema Consultative Committee by which an advisory sub-committee is to be appointed to advise on such questions as children's clubs. The views of the Association on the employment of children are of interest to magistrates. Strong objection was raised to a suggestion by the departmental committee on the employment of children in the theatre, that there should be two licensing authorities, one the local education authority for children between the ages of thirteen and sixteen and the other a central licensing authority for children under thirteen years of age, all children coming from or going abroad, and all children taking part in television broadcasts.

THE MAGISTRATES' COURTS BILL

We have outlined in a Note of the Week the scope of this most important measure, and we think it may be of interest to our readers if we deal in rather more detail with some of the minor amendments and improvements which are proposed and which are set out and explained in the memorandum which has been laid before Parliament.

In the introduction to the explanatory notes are given three specific reasons why some minor changes have to be made. In the first instance it is desired to remove minor differences which exist between the sections of the Indictable Offences Act, 1848, which detail the procedure before examining justices, and the earlier sections of the Summary Jurisdiction Act, 1848, which deal with similar matters before justices, relating to summary informations and complaints. Secondly in the latter Act itself there are many overlapping and not wholly consistent provisions, and criminal and civil matters are dealt with jointly in sections, although the terms applicable to criminal matters are sometimes inappropriate to civil cases, and confusion can therefore be caused. Thirdly it is noted that many provisions in the Summary Jurisdiction Act, 1848, have been amended by subsequent Acts which in many instances did not attempt to make the necessary consequential repeals or textual amendments in the 1848 Act, and also that whereas that Act expressly saved parallel but somewhat different provisions of the Metropolitan Police Courts Act, 1839, the Summary Jurisdiction Act, 1879, where it is in conflict with the 1839 Act, overrides that Act.

We come now to some of the proposals in detail :

Written Informations.—Neither s. 2 Summary Jurisdiction Act, 1848, nor s. 21, Metropolitan Police Courts Act, 1839, requires the information on which a warrant in the first instance is to be granted to be in writing. This is a specific requirement of s. 8 Indictable Offences Act, 1848. It is proposed that the requirement shall be specifically stated as applying in all such cases, and this general requirement appears in cl. 1 of the Bill.

Joint trial of two offenders.—It is considered that the words "as the case may be" in s. 31 (1) Criminal Justice Act, 1925, make it possible to argue that it is only if each offender is charged with an indictable offence or each is charged with a summary offence that the provisions of the subsection apply. If this limitation does exist it is proposed to remove it, and the proposed provision in the new Bill appears in cl. 1 (2) (*b*).

Issue of Process by one justice.—Section 29, Summary Jurisdiction Act, 1848, deals with the acts which may be done by one justice. It is considered that certain statutes which in terms confer on two justices the power to issue process are not overridden by the general provision in s. 29, and that it is desirable that the general rule, that in all cases one justice may issue process, should apply universally. This is dealt with in cl. 1 (5) of the Bill.

Venue in indictable offences tried summarily.—Doubts have been expressed whether the wording of s. 11 (1) Criminal Justice Act, 1925, is such that in certain cases justices have not jurisdiction to try summarily cases which they have clear jurisdiction to commit for trial as examining justices. We do not propose to deal with the arguments here, they are clearly set out in the memorandum, proposal 5. It is sufficient for our purpose to note that cl. 2 (4) of the Bill confers jurisdiction on a magistrate's court, in any case where it has otherwise the power to try an indictable offence summarily, to deal with any case in which it has jurisdiction as examining justices.

Committal for trial to next Quarter Sessions but one.—The proviso to s. 14 (5) Criminal Justice Act, 1925, enacts that the power given by the subsection to commit for trial, on bail, to the next quarter sessions but one shall not be exercised unless these sessions are due to be held within eight weeks of the date of committal. In practice this restriction has disadvantages, and cases committed to a quarter sessions to be held within five days of the committal are often allowed to stand over to the

ensuing quarter sessions. It is proposed, therefore, in cl. 10 (2) of the Bill that the power shall be exercisable whenever the accused is committed for trial on bail and the next appropriate quarter sessions are due to be held within five days of the date of committal.

Making orders by consent.—Section 14, Summary Jurisdiction Act, 1848, regulates the conduct of proceedings at the hearing of an information or complaint, and differentiates between cases where there is an admission and where no cause is shown why there should not be a conviction or order and those in which a defence is put forward. It is clear law that in certain cases, particularly in matrimonial proceedings, it is wrong for a court to make an order by consent without hearing evidence to substantiate the truth of the complaint. It is proposed to state this specifically in the Bill. Clause 13 (3), relating to the summary trial of informations, authorizes conviction on a plea of guilty without evidence; but cl. 45 (3), dealing with the hearing of complaints, restricts the power to proceed without evidence to those cases specified in the subsection or prescribed by rules.

Adjournment sine die.—The very general practice in summary courts of adjourning the hearing of a case *sine die* has probably no statutory sanction under the existing law and doubts have been expressed by the High Court as to its validity. The Bill proposes to confer such a power, subject to a requirement that the proceedings shall not thereafter be resumed unless the court is satisfied that the parties have had adequate notice of the date of that resumed hearing. The appropriate clauses are 14 (2), for criminal cases, and 46 (2) for civil cases.

Summary trial of an attempt to commit an indictable offence.—The Bill accepts the decision in *R.* v. *Fussell* (1951) 115 J.P. 562 that an "attempt to commit an indictable offence that can be tried summarily" covers all such offences and not only those which can be tried summarily with the consent of the accused by virtue of s. 24 Criminal Justice Act, 1925. In that Act care was taken by proviso (*c*) to s. 24 (1) to ensure that anyone dealt with, by virtue of s. 24 and sch. 2, for inciting to commit a summary offence should not be liable to a greater penalty for that than for actually committing the said offence. Accepting *R.* v. *Fussell*, as we must, it seems that the 1925 Act overlooked the fact that a similar anomaly was created by making triable summarily an attempt to commit an indictable offence which, when tried summarily from the beginning (as now regulated by s. 28 Criminal Justice Act, 1948) rendered the offender liable to a less punishment than that provided by s. 24 (1) for the attempt. This omission, if such it be, is repaired in cl. 19 (9) of the Bill.

Changing from summary trial to hearing as indictable offence.—The present wording of s. 28 (5) Criminal Justice Act, 1948, is such that it excludes the whole of s. 28 from applying to cases which are indictable only by virtue of a claim made under s. 17 Summary Jurisdiction Act, 1879, or triable summarily only by virtue of s. 11 of that Act or s. 24, Criminal Justice Act, 1925. That is what the subsection says. It has been argued, however, that what it means is that the preceding four subsections shall not apply to such cases, but that s. 28 (6) is to apply to them because otherwise the latter part of that subsection "but, except as aforesaid a court, having begun to deal summarily with such an offence, whether under this section or under any other enactment, shall not thereafter proceed to hear the charge as for an indictable offence" has a much more limited meaning than was intended. It is now proposed to say, in cl. 24 of the Bill, what it is suggested was said, or intended to be said, in the 1948 Act, and to provide that only where a court has begun summary trial of an indictable offence by virtue of the procedure now set out in s. 28 (1) of the 1948 Act shall there be power to discontinue summary trial and proceed as for an indictable offence.

Right to claim trial by jury.—There are at least four enactments other than s. 17, Summary Jurisdiction Act, 1879, which confer on the accused a right to claim trial by jury. These other statutes do not define clearly how the claim is to be made, and it is proposed that the procedure in s. 17, *supra*, as amended by the Criminal Justice Act, 1948, shall apply in all cases. This is effected by cl. 25 (2) and (3). A further provision concerned with the right to claim trial by jury is made in cl. 25 (4). This details a specific procedure to be followed in those cases where the right to claim trial by jury exists only if the accused has been previously convicted of a like offence and has so become liable to a penalty bringing the case within s. 17, *supra*. The court is to tell the accused, in such a case, that he may have a right to make such a claim and is to ask him whether, if he has such a right, he wishes to exercise it. If he says that he does the court will have then to satisfy itself that the right exists by inquiring about the previous conviction. The restriction of such an inquiry to the minimum necessary for the purpose is dealt with in the draft rules, r. 23.

Compensation on summary conviction of felony. It is not by any means certain, despite the practice followed by many magistrates' courts, whether s. 4, Forfeiture Act, 1870, applies in the case of a summary conviction of felony. It is, however, obviously desirable, when so many felonies are now tried summarily, that the power should be possessed by magistrates' courts of awarding compensation under s. 4 in suitable cases. Clause 34 of the Bill proposes that summary courts shall have such a power and that any sum so awarded shall be enforceable in the same way as costs ordered to be paid by the offender.

We may usefully interpolate here the information that the Bill does not deal in any way with the award or enforcement of costs in *criminal* cases. This is to be dealt with separately in a Bill which will deal as a whole with the question of costs in criminal cases in all courts.

Bail, at police stations, of children and young persons.—The Children Act, 1933, s. 32 allows the recognizance on which a juvenile is released from a police station to be entered into by his parent or guardian, with or without sureties. Such a recognizance, however, is one for the appearance of a juvenile before a court. There is no corresponding provision, as to the parent or guardian, where a juvenile is released, under the Summary Jurisdiction Act, 1879, s. 38 (as amended), to appear again at a police station. It is proposed to add this very useful provision, and this is effected by cl. 38 (3).

It will be noted, on reference to cl. 38 (1) that its provisions are not to affect the provisions of s. 32, Children and Young Persons Act, 1933. This is necessary because the provisions of the 1933 Act are not being incorporated in the Bill. To have taken out of that Act the relevant provisions would have left other provisions incomplete, and it has, therefore, been left intact. For the special powers and procedure of those magistrates' courts which are juvenile courts it will still be necessary, therefore, to look outside the new Bill and to rely, as before, on the Act of 1933 and on the appropriate rules.

These, then, are some of the minor amendments and improvements. We hope to deal with others in a further article or articles. We feel that it will not be easy to get a complete grasp of the new arrangement of the law relating to summary procedure, and knowledge of these minor changes may save some unnecessary research for provisions which are no longer included and may help in giving a clearer picture of what is included.

REASON AND DOUBT AS ELEMENTS OF PROOF

By G. H. L. FRIDMAN

In criminal cases, whenever counsel or the judge address the jury, or solicitors or counsel a bench of magistrates, particular emphasis is laid at some point in their remarks on the elementary basic principle that the jury or the bench should not convict if they are in any reasonable doubt as to whether the accused is guilty. This doctrine is a corollary of the underlying rule, which can be seen throughout the history of English jurisprudence like a " golden thread " (Lord Sankey in *Woolmington* v. *D.P.P.* [1935] A.C. 462 at p. 481 : a thread woven into Mr. G. D. Roberts' address to the United States court martial in the recent case of Hodge) that every man is presumed innocent till he is proved not to be. The words " reasonable doubt," therefore, must be uttered some millions of times every year. They come more quickly to the lips of practitioners of criminal law than any other ; they have acquired through the years a magical quality which makes them seem an " open sesame " to justice ; they are taken instinctively to be the epitome of English justice, characterizing in a phrase all that the Englishman holds to be peculiarly English about the law administered in this country, its effort to achieve fair play and the observance of rules of decency. Yet of all the numerous words and phrases in constant use and forming part of the vocabulary of advocates and judges, this one is the most nebulous, indefinite, and haphazard. To say that a " reasonable doubt " is that which would be entertained by a reasonable man takes an inquirer no further. The idea of " reasonableness " or a " reasonable man " is flexible ; so is a " reasonable doubt " ; and though it has been said that it is by its flexibility or elasticity that the common law has life, in this vital doctrine, which daily makes all the difference between conviction and acquittal, certainty would seem to be more desirable than the freedom of application brought by flexibility.

At last an authoritative criticism of the phrase has been made. For in *R.* v. *Summers* [1952] 1 All E.R. 1059 at p. 1060 the Lord Chief Justice, Lord Goddard, voiced the disapproval of the Court of Criminal Appeal. Pointing out that the usual practice is to try to explain to the jury what is a reasonable doubt —which involves great difficulty—he stated that it would be far better to tell a jury : " You must not convict unless you are satisfied by the evidence given by the prosecution that the offence has been committed." Such a direction, whether given by judges to juries, or magistrates to themselves, would liberate the criminal courts from unnecessary metaphysical speculation and the sometimes otiose mental gymnastics of forensic eloquence. Doubt would be banished from the considerations of those trying the facts ; and decisions could be reached merely by reflecting upon the strength or weakness of the prosecution's case. Simplicity of method would thereby be attained, while the necessity for intense inward cogitation and the likelihood of an extended period of vacillation would alike be avoided.

But to part from established tradition and long-hallowed usage is not easy. If the exhortations of Lord Goddard are followed nostalgia is certain to result, and those concerned in any way with the administration of criminal justice are bound to think regretfully of their former modes of conducting inquiries. Nor could they be blamed for doing so. The concept of " doubt " may be a negative and uncertain way of approaching the determination of the issues involved in prosecutions for criminal offences, but accompanying it there is the naturally attractive feeling that the accused at the start of the case has an advantage over the prosecution, in that he will be allowed the benefit of whatever doubt is raised by the evidence. The expression of the same principle of jurisprudence in the terms set out by Lord Goddard does not make so plain the special indulgences granted by English law to all accused persons. " To be satisfied that the offence has been committed " sounds very different from " to acquit if there is a reasonable doubt," although the ultimate effect is the same. Obviously the Lord Chief Justice, in making the remarks he did, desired to ensure that greater clarity resulted in the minds of jurors, and of magistrates also. But the price that can be paid for clarity may be too high ; and it is respectfully submitted that the concept of " reasonable doubt " should not be banished from the criminal courts.

It has always been accepted that the burden of proof in civil actions is not as strict as in prosecutions. All that is required is that " the preponderance of probability " should be in favour of the party seeking to prove a certain fact. (*See* Willes, J., in *Cooper* v. *Slade* (1858) 6 H.L.C. at p. 772). No question of reasonable doubt arises, therefore, in civil cases. But that does not mean that " reasonableness " is unimportant in deciding the facts in such cases. Particularly when a judge sits alone, without a jury to determine the issues of fact, will it be necessary for decisions to be reached on the basis of what reasonable men would conclude was the truth, or what was reasonable and proper in the circumstances ; *cp.* the discussion of " reasonable " in *Tempest* v. *Snowden* [1952] 1 All E.R. 1, which was an action for malicious prosecution. " Reasonableness " was essential in the case of *John Lewis & Co., Ltd.* v. *Tims* [1952] 1 All E.R. 1203, for the question involved was whether a woman accused of stealing from a shop had been taken before a justice of the peace or police officer within a reasonable time after apprehension and not after an unreasonable delay in the shop (*see* Lord Porter at p. 1211). The House of Lords, on the facts before them, exonerated the appellants from liability to the woman because the delay was held in the circumstances not to have been unreasonable.

Another recent case in which was stressed the great importance of decisions of fact that are consistent with reason was *Lee* v. *Showman's Guild of Great Britain* [1952] 1 All E.R. 1175. There a member of the guild had been penalized because the committee considered him to have been guilty of a breach of a rule against " unfair competition " by occupying a site allotted to him by a local council, although that site had regularly been used by another member of the guild. But there was no suggestion of undercutting or bribery such as is normally " characteristic of the ordinary conception of unfair competition " (*per* Romer, L.J., at p. 1187) so there was nothing " reasonably " capable of being considered unfair competition. The Court of Appeal therefore declared that the man was still a member of the guild despite the committee's decision, which was *ultra vires* and void because they had in that way misconstrued the rules, and by so doing had exceeded their jurisdiction. The issue was one of the reasonableness of the committee's pronouncement, having regard to the evidence before them. No question of violating principles of natural justice or of acting dishonestly arose in that case : (*see* Somervell, L.J., at p. 1179). Sometimes, in similar cases, that is the ground of the court's intervention, but the principles upon which the court interfered in *Lee's* case was that : " . . . no facts were adduced before them which could reasonably be considered to be unfair competition within r. 15 (*c*)." (*Per* Denning, L.J., at p. 1183, and *cp.* Somervell, L.J., at p. 1150).

Such tribunals as the committee in this case are of great importance in modern society. They are not dealing merely with

the social life of the person accused of misconduct—as in cases like *Dawkins* v. *Antrobus* (1881) 67 Ch.D. 615 and *Young* v. *Ladies' Imperial Club* [1920] 2 K.B. 523. Nothing vital is involved in those cases, which usually are concerned with questions of ethics and not of law, and these are peculiarly within the province of a social club, so that nothing short of dishonesty or excess of jurisdiction will move the courts to interfere, even if the decisions of the club committees are plainly unreasonable; *cp.* Romer, L.J., at p. 1185. But these tribunals under consideration deal with a man's livelihood, his right to work which is: ". . . Just as important, if not more important to him, than his rights of property. These courts intervene every day to protect rights of property. They must also intervene to protect the right to work." (*Per* Denning, L.J., at p. 1181 and *cp.* the same judge in *Abbott* v. *Sullivan* [1952] 1 All E.R. 226 at p. 234).

So it is necessary for their findings to be reasonable and not of doubtful validity in view of the evidence upon which they are grounded. If facts are not reasonably capable of being held to be a breach of a rule, and yet such a breach is said to have been committed, then a tribunal that does so hold acts unreasonably, misconstrues the rules, and exceeds its jurisdiction, giving rise to intervention by the ordinary courts which will redress wrong and maintain the position of the unjustly condemned.

Because of the far-reaching results of such tribunals' decisions, it may be that where they are concerned the criminal test is to be applied, and that the case against the accused member must be proved "beyond reasonable doubt." Their investigations are quasi-criminal, involving a stigma which, within a limited circle, is just as opprobrious and injurious as a conviction is among society at large. So, before anybody can be deprived of the good name which he holds in the trade or profession which he practises, there must be adequate and reasonable proof of misconduct to justify expulsion (*cp.* the Medical Act, 1858, s. 29, and the judgments thereon in *Leeson* v. *General Council of Medical Education and Registration* (1889) 43 Ch.D. 366, and *Allison* v. *General Council of Medical Education and Registration* [1894] 1 Q.B. 750). The judgment of the Court of Appeal in *Lee's* case, *supra*, comes, therefore, to support, albeit indirectly and by implication only, the contention that there is still room for the idea of "reasonable doubt" in those cases in which criminal or analogous acts are in question.

PRIVILEGED VISITORS

The case of Chief Steward Hodge, a negro member of the United States forces now stationed in this country, became sensational by accident. The facts were in essence commonplace. In a lodging house brawl Hodge was alleged to have stabbed to death another negro, who was a civilian British subject. Hodge, however, instead of a "prisoner's friend" of the type normally available to a service man tried by a court martial, selected as counsel one of the best known leaders of the English Bar, Mr. G. D. Roberts, and the latter's success in coping with the procedure of a United States military court, and securing the acquittal of his client, made headlines for some days. Thus the general public became aware of two things: that foreign courts were sitting in London to try criminal charges, and that the jurisdiction of those courts did not merely extend (as would have been supposed, we think, by most people) to offences against discipline, or by a member of those forces against another, or even other citizens of the United States, but to the gravest charges of an offence against a British subject. Thus Britain is seen to have established here a system which is, as regards criminal law, equivalent to the "capitulations," enforced by European powers in the nineteenth century in various Oriental countries, and shaken off recently, as an affront to self-respect, when those countries became strong enough to assert their dignity. The main feature of the system is that the visiting foreigner takes with him a personal status, placing him beyond reach of the courts exercising criminal jurisdiction in the country when he is alleged to have been guilty of a contravention of the ordinary law.

When the trial was over, a learned correspondent of *The Times* suggested that, however justified this system may have been in the time of war, it could not be justified today—to be followed by Lord Schuster, who made as good a case (we think) as can be made for continuing the system. Since Lord Schuster was Clerk of the Crown and Secretary of the Lord Chancellor's Department when the United States of America (Visiting Forces) Act, 1942, was passed, and must have been in the inner counsels of the legal members of the Government ten years ago, he speaks now with exceptional authority. His defence of the Act of 1942 (and its continuance in peace time) rests on two main pillars, one international and one domestic. First, he tells us, the balance of juristic opinion in the United States is that members of an armed force proceeding overseas are, as it were, an emanation or overflow from the national sovereignty of their own country, much as a foreign embassy is loosely spoken of as foreign territory: it is courteous to accede to this opinion though British jurists would not generally share it, at any rate in time of peace. It is fair also, upon our own analogy of the now discredited Capitulations, to remark that the latter were not confined to visiting aliens who formed part of a force under arms, but extended normally to all subjects of the power which had secured the particular Capitulation. Secondly, a more practical ground, most criminal offences when proved are nowadays punished by a fine in British courts. For members of the forces of the United States (it was said in the newspapers in May that a private soldier's pay is now equal to £1,000 a year) the ordinary British fine would be derisory. It would be impossible in practice in a magistrates' court to impose heavier punishments on them when convicted, say of a minor motoring offence, than on British soldiers or civilians convicted of the same offence, so it is better to leave them to their own courts to deal with. So far as it goes, this is a good argument; the Act of 1942 does not extend to civil remedies, nor does it preclude arrest by a British constable of a United States service man charged with a criminal offence.

Thus if such a man hires a car for a private frolic, gets drunk, smashes the car, and injures a pedestrian, he can be sued by the car owner and pedestrian, in the same courts and under the same laws as could his British comrade; he can be arrested by a British constable, and it is only for purposes of the various criminal offences he has committed that he has to be handed over to his countrymen to deal with.

Moreover, we do not think the public in this country is likely, once it gets over the first shock of discovering the position accorded to the forces of the United States, to be disturbed about their being tried in their own courts for serious offences, such as murder, rape, and robbery, which are certain to be crimes by whatever law those courts administer, equally as by

British law. There are however two things which Lord Schuster's letter failed to bring out. One is that it is an extraordinary privilege that is granted by the Act of 1942, for the Allied Forces Act, 1940, already allowed all allied forces stationed in this country to control, by their own military law, the "discipline and internal administration" of their members, the jurisdiction of British civil courts being expressly saved by s. 2. (Neither of these Acts of 1940 and 1942 was, by the way, limited to the duration of the war). A second point upon which the British public might usefully be enlightened is what line a United States court martial takes in regard to offences which are *mala quia prohibita*, not *mala per se*. The former may be the more important. For instance, most common assaults and petty larcenies are far less serious, both in their usual consequences and in the penalties normally imposed, than is driving a motor vehicle which is not insured against third party risks. If Chief Steward Hodge had kept a British dog in the lodgings where he lived, without a British dog licence, would he have been open to trial by court martial for the criminal offence? This may not matter much, but suppose a well-to-do member of the United States forces to buy a car in London, and drive it without complying with s. 36 of the Road Traffic Act, 1930. On his being stopped by a British constable, and handed over for court martial by his country men, will his so driving be a criminal offence? And will the penalty of twelve months disqualification from holding a British driving licence, inevitable in an English court unless special circumstances are shown, be imposed by the court martial and enforced by the United States provost marshal's staff? And what is the position if such a man's duty requires him to drive an Army vehicle? This is the sort of thing the British public may not unreasonably ask.

THE RIGHT TO WORK

[CONTRIBUTED]

None of us can be unaware of the realities behind the competing political philosophies in modern affairs. With such a background, the case of the *Showmen's Guild* decided in the Court of Appeal on April 4 [1952] 1 All E.R. 1135 deserves particular notice.

In *Lee* v. *The Showmen's Guild of Great Britain* a decision was given on the jurisdiction of the court to interfere in a question between a member and a trade union which had expelled him. The Guild, an association of travelling showmen, was a registered trade union. Amongst its objects was the prevention of unfair competition between members. Lee had become involved in a dispute with another member as to which of them was entitled to use a roundabout site at the Bradford summer fair. The dispute led to a decision of the Area Board of the Guild that Lee was guilty of unfair competition, and the Board fined him £100. He refused to accept the decision or pay the fine, whereupon he was deemed to have ceased to be a member. He applied to the court for a declaration that the Guild's decisions were *ultra vires* and void.

In his judgment in the court below, Ormerod, J., said that whilst the committee had been right in preferring the other member's claim to Lee's, it had not been established that Lee had broken any of the rules. The Guild appealed, contending that the court ought not to interfere with the proceedings of a purely domestic tribunal which had power to impose fines and expel members, and had exercised that power reasonably and honestly.

Somervell, L.J., after observing that there was no question of a breach of the principles of natural justice, and that the court could not be made a court of appeal from domestic tribunals, said that there was a distinction between cases where the decision challenged was under rules based on matters of opinion and those, as the case before the court, where the decision was based primarily on the legal construction of the words in the rule.

Denning, L.J., elaborated this and found no evidence of unfair trading within the rule, *viz.*: "No member . . . shall indulge in unfair competition with regard to the renting, taking or letting of ground or position." He said: "The power of the courts to intervene extended to the correct interpretation of rules. In the present case, was the committee to be the sole judge of what constituted 'unfair competition'? If the committee found a member guilty he could be made to pay a heavy fine and also deprived of membership. He would be excluded from all the fair grounds of the country controlled by the Guild. This was a serious encroachment upon his right to earn a livelihood, and it was not to be permitted unless justified by the contract into which he had entered. The courts had never allowed a master to dismiss a servant except in correspondence with the terms of the contract between them. So they could not permit a domestic tribunal to deprive a member of his livelihood or to injure him unless the contract on its true construction gave them power to do so."

In applying the rule, the court held that the facts of the case were not as a matter of law reasonably capable of supporting the finding of the Guild. The facts could not reasonably be called "unfair competition" and the Guild therefore had no jurisdiction to find Lee guilty.

Whether the law in such a case as this might go so far as to hold that rules of the sort must be construed primarily for the common good and not as a weapon against a particular person cannot be other than conjecture. Possibly public policy was in the mind of the court; Denning, L.J., observed that the rights and duties of the members of the Guild were in theory based on contract.

Interesting also is the case of *Burn* v. *National Amalgamated Labourers' Union* [1920] 2 Ch. 364, holding that a trade union must act judiciously when exercising disciplinary jurisdiction over its members.

Another recent case dealing with the jurisdiction of the courts in connexion with trade unions is *Martin* v. *Scottish Transport and General Workers Union* [1952] 1 All E.R. 691. The House of Lords considered an appeal by a man who had been admitted a "temporary member" of a trade union, and decided that a condition of temporary membership such as was sought to be attached to membership was not in accordance with the union's rules in force at the material time, and, that being so, the appellant had never been a member.

"EPHESUS"

CHIEF CONSTABLES' ANNUAL REPORTS, 1951

26. SWANSEA

The population of the borough is 164,797 and the area 21,600 acres. The authorized strength is 251 and the actual number at the end of the year was 214. "Male recruits during 1951 numbered thirty, together with two joining on transfer from other police forces, permitted the actual strength to be raised by eleven men, as retirements on pension and resignations totalled twenty-one." Civilians employed with the force number twenty-nine.

Indictable offences recorded amounted to 2,028 compared with 1,549 in the previous year; forty-six *per cent.* were detected. The property involved was valued at £20,281 against £16,277 and that recovered £3,253 compared with £3,234 in 1950. Juveniles dealt with for crime numbered 238, in the previous year there were 226.

There were 1,488 road accidents causing nine fatalities and injuries to 636 people; in 1950 eleven deaths were caused in 1,545 accidents and 587 people sustained injuries.

Licensed premises in the borough total 293 and there are forty-nine registered clubs; 261 men and twenty-one women were charged with drunkenness.

27. BRADFORD

The population of the city is 292,394 and the area 25,526 acres. Police establishment is 571 and at the end of the year there were fifty-three vacancies. Membership of the Special Constabulary at the beginning of the year was 598 and at the end of the year 588.

Indictable offences numbered 4,943 against 4,827 in 1950; thirty-nine *per cent.* were detected. Property involved was valued at £56,669 and that recovered £22,477, the figures for the previous year were £49,858 and £18,121. Three hundred and forty-seven juveniles were dealt with by the courts against 245 in 1950.

There were 3,379 road accidents; thirty-five deaths resulted and 1,078 people were injured; the year before fatalities and the injured totalled 940.

Licensed premises in Bradford number 827 and there are 154 registered clubs. Five hundred and eighty-four men and thirty-five women were charged with drunkenness; in 1950 the figures were 599 and thirty-one, and in 1913, 754 and 277.

28. EXETER

The population of the city is 76,670 and the area 9,137 acres. Authorized establishment is 113 and the actual strength at the close of the year 112. In addition, fifteen civilians are engaged with the force. Ten probationers were appointed, eight constables resigned and one was dismissed; sixty applications to join the service were received.

The chief constable reports: "At the request of the chief constables in the district, with the approval of the Home Office and with the co-operation of the principal and staff of the University College of the South West, I organized during the Easter recess a further course of refresher training for police sergeants from forces in No. 7 (South Western) District. The course, which was the fourth successive one, was attended by fifty-three sergeants, including four from the metropolitan police and four from the Birmingham City Police . . ."

Dealing with housing the report adds: "Housing members of the force continues to be a very difficult matter and although a gradual improvement in the situation has continued a large number of men remain unsatisfactorily housed . . ."

Indictable offences numbered 1,074 against 966 in 1950; sixty-two *per cent.* were detected, the same as the year before. Juveniles dealt with were 169 and they were responsible for 253 crimes. In the previous twelve months 164 juveniles committed 218 offences.

There were 305 road accidents which caused seven deaths and injuries to 334 people; in 1950 in 291 accidents there were five fatalities and 316 persons injured.

In Exeter there are 169 licensed premises and thirty-six registered clubs; twelve men and one woman were charged with drunkenness and two with driving motor vehicles under the influence of drink. The year before the respective figures were thirty-four, one and five.

29. SOUTHAMPTON

The area of the borough is 9,192 acres and the population 180,800. The approved strength is 363 and the actual number on duty at the end of the year 342. Eighteen probationers were appointed; six members retired on pension, one constable transferred to another force and one was dismissed. Thirteen other constables resigned for reasons such as: unsuited to the service, domestic, to get more remunerative work and one to join the Malayan police. Sixty-nine applications to join were received. The complement of special constables is 230, an increase of six through the year. Four women are members. Civilians employed with the force total fifty-one.

Indictable offences numbered 2,924, an increase of 344; forty-eight *per cent.* were detected. "Four hundred and thirty-one of these detections are credited to the uniform branch and 987 to the C.I.D. Three hundred and thirty-six juveniles were before the courts, compared with 287 in 1950. The value of the property involved was £37,470 of which £11,759 worth was recovered; the year before the corresponding figures were £34,819 and £8,791.

Road accidents recorded were 2,108, resulting in twelve deaths and 953 injured; the year before there were eighteen deaths but 158 fewer people injured.

In Southampton there are 457 licensed premises and sixty-nine registered clubs. Two hundred and thirty men and thirty-seven women were charged with drunkenness compared with 141 men and seven women in the previous year. Twenty-two men were charged with being drunk in charge of motor vehicles against fifteen in 1950.

On housing the chief constable reports: "The housing problem so far as the force is concerned is not so acute, but there are still some members living in very undesirable circumstances and it is hoped that this will be alleviated before many months have passed."

30. LINCOLN

The population of the city is 69,900 and the acreage 6,128. The authorized establishment is 121 and at the end of the year the actual number was 108. Three men were recruited during the year and the wastage was nine. "Good progress in the provision of houses for married members of the force was made . . . . and eighteen police authority owned houses were actually completed and occupied. In addition a further six houses were under construction at the end of the year.

Indictable offences numbered 651; the year before there were 673; seventy-one *per cent.* were detected. Juveniles were responsible for 109 crimes. The value of the property involved in crime was £11,443 of which £5,438 worth was recovered. The year before, stolen property was valued at about £2,000 more.

Road accidents totalled 697, an increase of 204; these caused two deaths and injuries to 241 people, compared with one fatality and 188 injured in 1950.

There are 176 licensed premises in Lincoln and thirty-one registered clubs. Fifty-six people were charged with drunkenness, two less than last year.

WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Devlin, JJ.)

R. *v.* EAST KERRIER JUSTICES. *Ex parte* MUNDY

May 29, 1952

Justices—Procedure—Retirement of justices—Information with regard to previous conviction conveyed to justices in their room—Retirement of clerk with justices—Certiorari—Conviction quashed.

MOTION for order of *certiorari*.

At a court of summary jurisdiction for the East Kerrier petty sessional division of Cornwall an information was preferred against the applicant, Cyril Vivian Mundy, charging him with driving without due care and attention. At the conclusion of the evidence the justices' clerk retired with the justices. He came out from the justices' room and spoke to a police officer in court, who handed him a document on which a previous conviction of the applicant was recorded, and the clerk then returned to the justices' room. The justices subsequently returned into court, announced that they convicted the applicant, and called for evidence of the previous convictions of the applicant (if any), and a police officer proved the conviction. The justices fined the applicant £5 and suspended his driving licence for three months. The applicant obtained leave to apply for an order of *certiorari* to bring up and quash the conviction on the ground that there had been an irregularity in procedure in that the justices had received evidence otherwise than in court. The justices, in an affidavit, stated that they had decided to convict before sending their clerk to obtain the document from the police officer.

Held: (i) that, distinguishing *Davies* v. *Griffiths* (1937) (101 J.P. 247), as the information with regard to the previous conviction had in the first instance been conveyed to the justices in their private room and nothing had at any time been said in court with regard to the document for which the justices had sent, *certiorari* must issue and the conviction must be quashed on the ground that there had been an infringement of the rule that justice must not only be done, but also must manifestly appear to be done; (ii) a justices' clerk ought not to retire with the justices when they are considering the facts, but should remain in court unless the justices require his assistance on some point of law, in which case it is proper for them to send for him.

Counsel: *Laskey* for the applicant; *McCreery* for the justices and the prosecutor.

Solicitors: *Balderston, Warren & Co.*, for *R. C. Henderson*, Falmouth; *Barlow, Lyde & Gilbert*, for *Stephens & Scown*, St. Austell.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Lord Merriman, P., and Pearce, J.)

DOWELL *v.* DOWELL

April 25, 1952

Husband and Wife—Maintenance—Wilful neglect to maintain—Maintenance agreement—Covenant by wife not to sue providing payments punctually made—No default in payment—Deterioration in wife's financial position.

On December 22, 1949, a husband and wife entered into an agreement whereby the husband agreed to pay a certain sum each week as maintenance for the wife and for the child, and the wife undertook not to take any proceedings for maintenance so long as the payments were punctually made. Owing to ill-health the wife was forced to give up work and asked the husband for an increase of maintenance. The husband refused to accede to this request, but at no time was he in default in his payments under the agreement. On a summons by the wife alleging that he was guilty of wilful neglect to maintain,

Held: the punctual performance of the obligation to make weekly payments was not conclusive of the matter, and the wife was entitled to have the amount reviewed in the light of the existing circumstances.

Tulip v. *Tulip* ([1951] 2 All E.R. 91), applied.

Counsel: *Besley* for the husband; *P. M. Wright* for the wife.

Solicitors: *Sharpe, Pritchard & Co.*, for *Nicholls & Nicholls*, Exmouth; *Arnold Carter & Co.*, for *Dunn & Baker*, Exeter.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

ROAD ACCIDENTS—MARCH, 1952

During March 13,977 persons were injured on the roads of Great Britain, 336 of them fatally.

Compared with the same month in 1951—which included Easter—these figures show a reduction of 2,465 in the total and of sixty-eight in the killed.

There was a marked improvement in the figures for all classes of road users except those for pedal cyclists. Pedestrian casualties fell from 5,010 to 4,131—a decrease of 879. Casualties to motor cyclists and passengers, totalling 2,373, were 371 fewer, and casualties to other drivers decreased by 318 to 1,431.

The number of children killed and injured was 2,897. This was 414 below the figure for the previous March.

Coming immediately after a reduction of over 1,000 in the casualties for February, the all-round improvement in the figures for March strengthens the hope that the rise in road casualties since the end of 1948 has been arrested.

CARNEGIE UNITED KINGDOM TRUST

Most of the income of the Carnegie United Kingdom Trust, which was established thirty-eight years ago, is spent on assisting music, drama and education, but £17,000 was spent in 1951 on youth services and £30,000 on community services. The Family Welfare Association and Family Service Units were each allocated £15,000 for the current quinquennium. As stated in the recently issued report for 1951, the main functions of the Family Service Units are to undertake practical work in the homes of problem families and, as a corollary, to carry out practical research in close association with the actual field work of the separate units. The organization provides for the training of its own workers. Service units are now established in some of the larger cities, and three main training centres have been set up in London, Manchester and Liverpool. A programme of research is also in contemplation. We continue to watch the operations of these units with interest in the hope that they will help to reduce the work of the courts by dealing with problem families before reaching the court stage.

Another worthy object which has been consistently supported by the Trust is the provision of village halls which has, however, been impeded by restrictions on capital expenditure. Even then work proceeded during the year on twenty-one schemes. A project of a different character is a community centre in Liverpool for coloured people and their friends to which a grant was made of £6,000. The coloured population of Liverpool is between 10,000 and 15,000, and the centre, which was opened in 1942, attempts to bring this population into the general life of the community and, at the same time, to raise the standard and ideas of the coloured people by means of informal education. The grant by the Trust is for development purposes.

In the educational field the Trust is helping to meet the needs of those who are both deaf and blind, of whom there are some 2,000 in the United Kingdom. Some of these were born lacking one or both senses, some have become blind and deaf by accident or disease, and some are war casualties. Those who were first blind and later lost their hearing can usually speak and use Braille. Those who were deaf and later lost their sight are more difficult to communicate with because they depended mainly on lip-reading. The problem of finding some means of communication by touch alone, which can be used by a

teacher or a visitor, is one of acute experimental urgency. A prototype machine has been designed. This takes the form of a typewriter keyboard which controls a set of small punches arranged so as to give the Braille notation of each letter as it is pressed on the keyboard. The Trust has defrayed the cost of an experimental twelve machines. It is emphasized in the report that the whole problem is one of the most formidable that has ever challenged the remedial worker, but the achievements of Helen Keller have proved that there is no limit to the sensitiveness and intelligence of the blind-deaf, once the initial difficulty of communication has been overcome.

Turning to another matter, it is mentioned that a report is being drafted as a result of a survey of agencies and activities concerned with juvenile delinquency. As evidence of the interest of the Trustees in this problem mention may be made of a grant of £15,000 to the West Ham Central Mission to enable them to erect on their country estate a residential home for twenty-four boys who have been in trouble or are likely to become delinquent. The essence of this scheme is that the boys in the Home shall not be segregated but shall mix freely with visiting campers throughout the year. Pioneering work by the Mission has been going on during the past three years in a cottage on the estate, but the experiment has been limited by lack of space.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 54.

APPOINTMENT OF GUARDIAN TO ACT JOINTLY WITH SURVIVING PARENT

At Leeds Magistrates' Court recently, the widowed father of a child and the maternal grandparent, each sought an order for custody of the child under s. 3 of the Guardianship of Infants Act, 1925. At the hearing, the solicitors for both sides withdrew their summonses, agreeing that the grandparent had no "locus," and the court had therefore no power to make such order. The grandparent held actual custody—the mother had made no testamentary appointment in her will.

The court then heard a second application by the grandparent under s. 4 (2) of the Act for appointment as guardian by the court to act jointly with the father.

Applicant's solicitor quoted s. 4 (2) to the court, and continued by explaining that, were his application granted, then should dispute arise, he would be entitled to apply again under s. 6, as his client would then have a "locus," and the court would have power to resolve the dispute. He further pointed out that, by virtue of s. 6 as amended by s. 79 of the Children and Young Persons Act, 1932, the court would then be in a position to make an order giving custody to his client, if thought fit, with such order as to payment and access as seemed proper.

Defendant's solicitor contended that the making of the order asked for would amount to a finding that his client was "unfit" to have custody, and strongly opposed.

The learned stipendiary magistrate ruled that in cases under this Act, the awarding of custody or appointment of a guardian by a magistrates' court does not involve a finding of unfitness as against the respondent or respondents. The magistrate pointed out that the Act merely directed that "the court should consider only the interests of the welfare of the child"—and that, even after the making of an order for custody, the other parties are always entitled to apply again, and—still without proof of unfitness—if the court is satisfied that conditions have changed, having regard to the interests of the child, it can revoke and reverse its previous order. Cases under s. 5 (in which section alone the word "unfit" appears), must clearly go before the High Court in almost every case, because probate of the will would be involved where there is a testamentary guardian-custodian, and it would seem likely that even the High Court could not unseat such a guardian without a finding that he was "unfit."

Evidence was then given which showed briefly that the father, who gave signs of being a coarse type, and his deceased wife, had been separated for over eight years during the whole of which time the child (now ten) had resided with the grandparent and had never seen her father, who was even to-day living in adultery with a woman who had a conviction for neglect of her own children.

The court made an order appointing the grandparent joint guardian and warned the father that, should he try to remove the child from her present residence, an order might be made conferring custody on the grandparent with an order for payment. The learned stipendiary magistrate emphasized that the father must, however, be given proper opportunity to get to know his own child within the precincts of her present home.

COMMENT

Mr. T. C. Feakes, clerk to the Leeds Justices, to whom the writer is greatly indebted for this report, states that it is the first case of its kind in Leeds since the coming into force twenty-seven years ago of the Guardianship of Infants Act. Mr. Feakes is of the opinion that the court's powers under s. 4 (2) of the Act of 1925 to appoint a guardian to act jointly with the father on the death of the mother are little known; the writer is not in a position to express any opinion on this point but has set out the facts of this case in detail so that if Mr. Feakes is correct in his opinion assistance may be given to those who have to deal with cases of a similar nature.

It will of course be recalled that s. 4 (1) of the Act of 1925 confers upon the court a similar power to appoint a guardian to act jointly with the mother where the father has died. R.L.H.

No. 55.

A COUNCILLOR'S FALSE CLAIM FOR EXPENSES

A forty-seven year old borough councillor appeared recently at Royal Leamington Spa Magistrates' Court charged first with obtaining £14 10s. from the council's borough treasurer by falsely pretending that on each of sixteen specified dates he had necessarily suffered loss of earnings or incurred additional expense for the purpose of enabling him to perform approved duty as a member of the borough council, and that the amount of each such loss or expense was not less than the amount specified in relation to each date, contrary to s. 32 (1) of the Larceny Act, 1916. A second charge alleged that the defendant had attempted to obtain £20 14s. from the borough treasurer by a similar false pretence in relation to twenty-three specified dates.

For the Director of Public Prosecutions it was stated that the defendant had actually obtained the sum of £20 14s. mentioned in the second charge, but that he had been charged with the attempt rather than the substantive offence, because suspicion had been aroused and investigations started before the money was paid.

The defendant, who was employed by a well-known company at a local factory as an assembler and was entitled to claim expenses for loss of earnings whilst engaged on public duty, left his work at 12.30 *p.m.* on a number of occasions on days when he attended meetings at 5 *p.m.* or 6 *p.m.* claiming for loss of the whole afternoon's work. On other occasions he claimed for the loss of afternoons' work when he had not even gone to work in the mornings. When interviewed by a police inspector defendant said "I did not intend to do anything wrong and I have saved enough money to pay back."

For the defendant, who pleaded guilty to both charges it was stated that since the matter came to light some months ago the accused had attended meetings of the council and committees without claiming expenses to which he was actually entitled. For the year ending April, 1951, defendant's gross wages had been £360, and these were increased to £459 during the year ending April, 1952.

Defendant was fined £25 on each summons and ordered to pay £5 5s. costs.

COMMENT

The writer has thought fit to record this case in some detail because it has come to notice that cases of a similar nature have arisen in other parts of the country during the past few months and it cannot be too widely appreciated that offences of this kind, which are relatively easy to commit, are always viewed with gravity when they come before the courts, being aggravated by reason of the status of the defendant.

It will be recalled that s. 32 (1) of the Act of 1916 provides for a maximum punishment of five years' imprisonment; cases brought under the section are triable summarily with the consent of the accused by virtue of s. 24 of the Criminal Justice Act, 1925.

(The writer is indebted to Mr. J. N. Martin, clerk to the justices, Royal Leamington Spa, for information in regard to this case).

R.L.H.

PENALTIES

Devon Quarter Sessions—May, 1952—attempting to break and enter a shop—three years' corrective training. Defendant, a twenty-eight year old transport driver, had four previous convictions. His wife and two children were in hospital suffering from tuberculosis and his six year old son had died from meningitis. Defendant said he had committed the offence to pay for his son's funeral.

Gloucester Assizes—May, 1952—(1) obtaining credit by fraud, (2) stealing from the victim property valued at £23—eight years' preventive detention. Defendant, a man of fifty who had been

sentenced to a total of fifty-one years' imprisonment and had actually served twenty-five years' imprisonment, asked for thirty outstanding offences to be taken into consideration. Within a week of release from serving a sentence of seven years and two months defendant commenced his present series of crimes.

Thornbury—May, 1952—(1) taking away a motor-cycle without the owner's consent, (2) driving while disqualified, (3) driving without insurance—(1) three months' imprisonment, (2) six months' imprisonment, (3) three months' imprisonment (all concurrent). Defendant, aged twenty-six, had a number of previous convictions.

Rhyl—May, 1952—(1) taking a van without the owner's consent, (2) driving without a licence, (3) no insurance—fined a total of £2 10s. and disqualified for twelve months. Defendant, a former Post Office employee who had been superannuated because of ill-health, recognized a Post Office van he had driven for fifteen years and could not resist the temptation of driving it a short distance.

Bath Juvenile Court—May, 1952—stealing £1 note in an envelope from a five year old boy—two years' probation and ordered to pay back the £1. Defendant an eleven year old boy.

Taunton—May, 1952—damaging the sun-blind of a shop causing damage estimated at £13—fined £5 and ordered to make restitution. Defendant a "Z" reservist swung on the horizontal bars of the blind causing it to collapse.

Warminster—May, 1952—indecent assault (four charges)—three months' imprisonment. Defendant, the thirty-nine year old driver of a school bus, indecently assaulted two girls aged twelve-and-a-half and fourteen whist they were travelling in the bus.

Oxford—May, 1952—using a lorry without covering insurance—absolute discharge. To pay 4s. costs. Defendant, a timber merchant, used his lorry which was insured whilst the vehicle was being used in connexion with his timber business as restricted by the "C" licence for the purpose of carrying a shed and garden requisites for a neighbour from one house to another to which she was removing.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

"AND THE FLOODS CAME"

I feel that I cannot let one statement in the above otherwise excellent article at p. 276, *ante*, pass without comment. Your contributor suggests that a distinction may be drawn as between foul and surface water, when considering whether or not a particular natural watercourse has become a public sewer (presumably, he is in any event only considering the position prior to October 1, 1937, for once the Public Health Act, 1936, had come into operation, different provisions apply).

In support of the statement in the article, to the effect that surface water may make a stream a sewer, whereas soil cannot do so, your contributor cites the *South Shields* case of 1895 and the well-known *Wenlock* case of 1938. With respect, I would suggest that the former case is merely authority for the proposition that water from roofs—surface water—is as much sewage, in a legal sense, as is foul water, and that therefore a stream conveying surface water is as capable of becoming a public sewer as is an artificial conduit conveying foul water; and, as your contributor points out, it is largely a question of degree.

The *Wenlock* case, however, was concerned with the question whether a natural stream could become a public sewer (before 1937) by reason of it having been used for the conveyance of sewage (and, I would submit, this term here be understood to include both foul and surface water), contrary to the terms of the Public Health Act, 1875, and the Rivers Pollution Prevention Act, 1876, and that question was answered in the negative by the House of Lords. Had the stream in question been in fact used as a sewer prior to 1876—for either foul or surface water—the decision in the *Wenlock* case would, it is submitted, have gone the other way.

Yours faithfully,
J. F. GARNER,
Town Clerk.

Municipal Offices,
Beech Hurst,
Andover.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

DELEGATION TO SUB-COMMITTEE

In a "Note of the Week" at p. 273 you comment on the doubts of a learned correspondent in connexion with an opinion expressed in a former article about the power of a local authority to authorize a committee to sub-delegate its functions to a sub-committee. Your correspondent had drawn attention to certain provisions in the Town and Country Planning Act, 1947, and the National Assistance Act, 1948, which appeared to him to imply that a local authority could not act in this way unless a specific power to do so was conferred by the empowering statute.

It may be worth while to point out that the two statutes mentioned are not the only ones which contain similar provisions, and that further support for your correspondent's view (or, alternatively, for yours) may be found in the following statutes:

Smallholdings and Allotments Act, 1908, s. 50 (2).
Public Health Act, 1936, s. 273.
Education Act, 1944, sch. 1, Part II, para. 10 (*b*).
National Health Service Act, 1946, sch. 4, Part II, para. 7.
Children Act, 1948, s. 39 (7).
Diseases of Animals Act, 1950, sch. 4, para. 6.

It would thus appear that on at least seven occasions since the passing of the Local Government Act, 1933, Parliament, either *ex abundanti cautela* or for other reasons, has felt it desirable to confer an express power to sub-delegate rather than follow the wording contained in s. 85 of the Local Government Act, 1933. I agree with you that this is not conclusive and that Parliament may simply have wished to save local authorities trouble or to guard them against their own oversights, but it is significant that the question, which you emphasize, of ultimate control by the council is also covered in the Act of 1933 by the words, "with or without restrictions, as they think fit," in s. 85 (1).

Prima facie, a principal, by conferring on his agent an express power of sub-delegation, can exclude the application of the maxim, *delegatus non potest delegare*. But a local authority has no power, except by virtue of express statutory provision, to delegate any of its functions at all, but can only make a decision by a resolution of the whole council. Since s. 85 of the Local Government Act, 1933, is the only statutory provision which gives a general power to delegate to committees (other than statutory committees set up under separate enactments): is it not arguable that if a power to sub-delegate to sub-committees is not contained in it then no such power exists?

You will have noted that the learned editors of *Lumley* (at p. 552 of vol. I of the 11th edition) have stated that "it seems doubtful whether these powers" (*i.e.*, those conferred by the Act of 1933) "include a power for the committee to delegate delegated powers to a sub-committee appointed by them." It is also notable that in sch. 4 to the Diseases of Animals Act, 1950, executive committees of local authorities are given power to sub-delegate to sub-committees, subject to any order made by the Minister of Agriculture and Fisheries, but committees other than executive committees have no such express power. I would respectfully suggest that while the opinions you have expressed may very well be right, there is sufficient doubt about the position to render it desirable for delegation to sub-committees of non-statutory committees to be effected only by the local authority themselves direct and not by their committees under powers purported to be delegated to them by the authority.

Yours faithfully,
F. H. BUSBY,
Town Clerk.

Town Hall,
Eastbourne.

[We are obliged to our learned correspondent, and certainly agr that if the council do appoint such a small committee as we suggest originally, whatever it is called, doubt may be avoided.—*Ed., J.P. & L.G.R.*]

COURT LOTTERY

The Law is hard on gambling
In any form of sport,
But seems to like a gambie
On payments into Court.

J.P.C.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

CORPORAL PUNISHMENT

When the House of Lords reassembled after the Whitsun recess, Earl Howe asked the Government whether, in view of the apparent increase in crimes and violence, and the remarks of those responsible for the administration of justice, consideration could now be given to the introduction of corporal punishment for those found guilty.

The Lord Chancellor, Lord Simonds, replying, said that when Parliament, in 1948, was considering the Criminal Justice Bill which abolished corporal punishment as a judicial penalty, the arguments for and against that form of punishment were fully ventilated, and the Government, while understanding that there were differences of opinion on that question, were not aware of any sufficient grounds to justify the introduction of legislation to amend the relevant section of the Criminal Justice Act, which had been in operation for less than four years. Before that Act came into operation courts had been able to award corporal punishment for offences of robbery, including armed robbery and robbery with violence, which were contrary to s. 23 (1) of the Larceny Act, 1916.

He went on to say that the recorded statistics did not indicate that that particular type of offence had tended to increase since the power to award sentences of corporal punishment against such offenders was taken away. On the contrary, in 1946 and 1947, when corporal punishment could be awarded, there were respectively 804 and 842 offences of that nature known to the police in England and Wales. The corresponding figures for 1950 and 1951 were 812 and 633.

Earl Howe then asked whether it was not a fact that practically every court charged with the administration of justice in this country, in dealing with such offences, had at one time or another expressed regret that it no longer had power to award corporal punishment. One of the latest expressions of that kind was used by the chairman of Exeter Quarter Sessions in a case where a youth had attacked a woman. How much longer had the population of this country to endure such a state of affairs? Was it not time the question was further considered?

The Lord Chancellor replied that he did not for one moment accept the proposition which Earl Howe advanced as representing an almost universal expression of opinion. Now, as well as before the passing of the Criminal Justice Act, there was a wide divergence of opinion. The matter was constantly under review.

CRIMES OF VIOLENCE

In the Commons, the Secretary of State for the Home Department, Sir David Maxwell Fyfe, replying to Sir H. Williams (Croydon E.), stated that during the first quarter of 1952, 299 offences of murder, attempted murder, manslaughter, wounding, indictable assaults, robbery and rape were known to the police in the Metropolitan Police District. The corresponding figure for the first quarter of 1951 was 335.

CRUELTY TO ANIMALS

Sir H. Williams asked the Secretary of State whether his attention had been drawn to the increasing number of cases of cruelty to animals by juveniles; and, in view of that, whether he would consider re-introduction of birching for boys.

Replying in the negative, Sir David said there was no evidence of any general increase in the number of cases or in the degree of cruelty.

CAPITAL PUNISHMENT REPORT

The Secretary of State told Mr. Hector Hughes (Aberdeen N.) that he understood that the Royal Commission on Capital Punishment hoped to present their report by the late summer.

MUSIC IN THE AIR

Music and musicians have figured prominently in the news these last few weeks. The first Birthday Honours of Her Majesty's reign include decorations awarded to a popular conductor, a famous violinist and orchestra leader and a well-known clarinettist. The Opera Season has opened at Glyndebourne, in its setting of eighteenth-century elegance and exquisite taste, and preparations are going forward for the Annual Season of the Henry Wood Promenade Concerts. This is the time of year when we ought to be able to relax and echo Caliban's words from *The Tempest*:

> " Be not afear'd: the isle is full of noises,
> Sounds and sweet airs, that give delight and hurt not."

Unfortunately the sounds and sweet airs in this Isle of ours are apt to be muffled and all but drowned by the martial blasts and noisy rumblings from across the sea. The themes that echo from Germany, in particular, give little delight, as we listen to the discordant clash, on the Berlin stage, between the strident chromatics of the American school and the alien tonalities of the Russian masters.

The situation that has recently arisen in Berlin, grave though it is, is not without its humorous aspects. Early in the month the Russian broadcasting-station was cordoned by British troops, who allowed persons inside to leave but none to enter. Reports from within were proudly circulated that certain trombone-players, who had been giving their services in the radio-programmes, had steadfastly insisted on remaining at their posts, and these performers have continued to give, on the air, aural evidence of their determination to sit out the blockade.

The connexion between musical taste and political reliability has, of course, been realised since Shakespeare's day. Lorenzo, in *The Merchant of Venice*, is quite dogmatic on the subject:

> " The man that hath no music in himself,
> Nor is not moved with concord of sweet sounds,
> Is fit for treasons, stratagems and spoils."

The attitude of the instrumentalists in Berlin was traceable, therefore, as much to ideological as to cultural motives. But why trombones should have been particularly singled out for mention in despatches was not immediately apparent. The subtlety of the reference becomes clearer when one considers the propagandist value of every move made by the one side or the other in this war of nerves.

Heroic resistance would, of course, be difficult to express in the thin notes of the flute or the plaintive tones of the violin, and a continuous tattoo on the bass drum is apt to become a little monotonous after the first couple of days. Admirers of Wagnerian music may, however, have wondered why the Berlin authorities have plumped for the trombone rather than the trumpet or the horn, the former of which has a shrill, challenging tone, and the latter a calm, mellow note of sweet reasonableness. It may be confidently assumed that these alternatives were carefully considered. The trumpet, no doubt, was rejected—strange as it may seem—on the grounds of Biblical precedent, having regard to the events described in the sixth chapter of the *Book of Joshua*. It will be remembered that the situation there described was similar to that now obtaining in the city of Berlin:

> " Now Jericho was straitly shut up because of the children of Israel: none went out, and none came in."

Joshua, as Commander-in-Chief of the besieging forces, did not feel himself bound, as a general of lesser calibre might have been, to choose between a long and exhausting siege and the wasting of numerous lives in an all-out assault upon the fortifications. He put into effect the subtle strategy of " Operation Fanfare ":

> " And it came to pass, when Joshua had spoken unto the people, that the seven priests, bearing the seven trumpets of rams' horns . . . , passed on and blew with the trumpets, and they compassed the city seven times . . . And it came to pass, when the people heard the sound of the trumpets, and the people shouted with a great shout, that the wall fell down

flat, so that the people went up into the city, every man straight before him, and they took the city."

This striking example of the potentialities of the brass and wind can scarcely be said to be encouraging to any beleaguered garrison; and it is easy to understand why the staff of the Berlin radio-station should have deprecated any mention of trumpets as detrimental to morale.

As to the horn, different considerations apply. There have recently, as everybody knows, been two political marriages of convenience—that between the West German Federal Republic and the Western Allies, and the other between the East German Democratic Republic and the Soviet Bloc. It is doubtful whether either union springs from any deep mutual affection, and lasting marital fidelity on the part of either of the German brides is scarcely to be expected. In these circumstances any reference to the horn—the age-old symbol of the deceived cuckold—would have been the height of tactlessness among the Berlin population at the present time.

All other possibilities, therefore, having been eliminated, it is now understandable why only the trombone could be considered as the proper symbol to suggest that precise note, compounded of sturdy defiance and martial menace, which is so vitally appropriate in what might have become an embarrassing situation.

Having said so much, it is only fair to add that the trombone, formerly known as the sackbut, and in Roman times as the *buccina*, was once a most respected member of the family of musical instruments. In the eighteenth century it was too aristocratic a relation to form part of the normal orchestra but was reserved (as the organ used to be) to convey an atmosphere of religious awe, as in the Requiem of Mozart and the Choral Symphony of Beethoven. In secular music Mozart and his great contemporary, Glück, employ the trombone also to convey the mystery of the supernatural. Most musicians are best acquainted with the famous instance in *Don Giovanni*—perhaps the most impressive episode in all music-drama. The libertine Juan stands at dead of night in the moonlit churchyard, confronting the memorial Statue on the tomb of the Commandant he has murdered. Defiantly he challenges the dead man to come and sup with him; the marble Statue nods its head, and in a sepulchral tone accepts the invitation. The horror of the scene is heightened by the awe-inspiring sounds of the accompanying trombone-chords in D minor, which are heard again only in the final catastrophe where the Statue, keeping its promise, stalks majestically to Juan's table and drags him down, in flames and torment, to perdition.

Don Giovanni, the greatest of all musico-dramatic works, was produced, in Prague, in the Autumn of 1787. Less than a century later, the trombone had come down in the musical world so low as to provide W. S. Gilbert and Arthur Sullivan with one of their best jokes. In 1885 they collaborated in *The Mikado*. Nanki-Poo, the son of the Emperor of Japan, flees *incognito* from his father's court to escape an unwanted marriage. The lowliest disguise he can find is that of a second trombonist in the town band of Titipu. Resolved at last to reveal his identity, he asks his beloved Yum-Yum—"What if it should prove that, after all, I am no musician?" Yum-Yum's reaction is immediate and direct—"There! I was certain of it, directly I heard you play!"

It is a far cry from the cheerful political satire of *The Mikado* to the grim ideological struggle in Berlin, but perhaps it may not be too late to express the hope that the actors in the present drama may yet avoid the cataclysm of *Don Giovanni* and at long last achieve a successful *dénouement* in the true Gilbertian vein.

A.L.P

PERSONALIA

OBITUARY

Sir Roland Burrows, Q.C., Recorder of Cambridge, died on Friday, June 13, aged seventy. Called by the Inner Temple in 1904, for a time he practised on the South-Eastern Circuit, and in 1915 became private secretary to the first Lord Birkenhead when, as F. E. Smith, the latter was appointed Solicitor General. In 1926 he was appointed Recorder of Chichester and in 1928 became Recorder of Cambridge, in succession to Sir Travers Humphries, on the latter's appointment to the Supreme Court Bench. In 1932 he took silk, and in 1940 became a Bencher of the Inner Temple. He was chairman of West Sussex Quarter Sessions, and had been Deputy Chairman of the Boundary Commission for England. In addition, Burrows held a number of public appointments.

It is, however, perhaps in connexion with his work as managing editor of *Halsbury's Laws of England*; editor-in-chief of *Halsbury's Statutes* and *Words and Phrases*, and consulting editor of the *All England Law Reports*, in addition to his own *Interpretation of Documents*, that he will be chiefly remembered by members of the junior branch of the profession.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Friday, May 30

VISITING FORCES BILL, read 1a.

Tuesday, June 10

CREMATION BILL, read 2a.
FAMILY ALLOWANCES AND NATIONAL INSURANCE BILL, read 2a.

Thursday, June 12

AGRICULTURE (POISONOUS SUBSTANCES) BILL, read 3a.
ELECTRICITY SUPPLY (METERS) BILL, read 2a.
CORNEAL GRAFTING BILL, read 3a.

HOUSE OF COMMONS

Thursday, June 12

DISTRIBUTION OF GERMAN ENEMY PROPERTY BILL (Lords) read 3a.
TOWN DEVELOPMENT BILL, read 3a.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Bastardy—*Death of mother who has appointed guardian—Father desires custody—Position as to custody and maintenance.*

A is a German now residing in England and is the putative father of an illegitimate child, B, of which C (an English woman) was the mother. C was a married woman whose husband had commenced divorce proceedings against her on the grounds of her adultery with A (B was born after C's marriage). Before the petition was heard C died. C has made a will appointing her sister D executrix of her will and guardian of B, and leaving everything to A. D now has custody of B. No order of the court has been made against A in respect of B. A is most anxious to have custody of B, who is now three years old. A knows a family who are prepared to look after B, the family having previously had the care of B during C's lifetime and where A would be able to see B frequently. A does not think that B will be happy with D. D refuses to give the child to A and requires A to maintain B.

We should like to know (1) has A any legal right to claim B, and if so, under what Act? (2) Can A be made to maintain B (if he fails to obtain custody of B); if so, by whom and under what authority? (3) We refer you to *In re Kerr* (1888) 24 L.R.Ir. 59. What does A do if he is unable to obtain custody by peaceful means? SEDU.

Answer.

It is a matter of some doubt whether the Guardianship of Infants Acts apply to the case of an illegitimate child, unless the context makes it clear that they do apply. If they do not apply A cannot make any application under those Acts and if A has any right of application it must be to the High Court which has inherent powers not possessed by inferior courts. It is, however, stated in 2 *Halsbury* 579 that on the death of the mother the father becomes the guardian of the child either alone or jointly with a guardian appointed by the mother, and reference is made to the Guardianship of Infants Act, 1925, ss. 4 (2) and 5, which seems to imply that in such case the Acts do apply to a bastard child. Our answers are therefore:

(1) *See* above.

(2) If the above Acts apply then A might be ordered to pay maintenance, *see* Children and Young Persons Act, 1932, s. 79.

(3) If the Acts apply he can make application to the High Court, the county court, or the magistrates' court. We suggest it would be of advantage to have the matter authoritatively settled by the High Court.

2.—Highways—*Road blocked by snow—Obstruction by abandoned vehicles.*

Certain roads in this county lead over a range of hills and, in the winter, if there is a heavy fall of snow, may be blocked for a week or more before the county surveyor is able to clear a passage. When a road is so blocked, a notice is put up by his department at the point beyond which any further progress is fruitless, stating that the road is blocked by snow, and giving details of alternative routes. Some lorry drivers, however, are in the habit of ignoring this notice and of trying to push on; they invariably get stuck and usually abandon their vehicles which are, as a rule, left on the highway, and they return later on when they hope to find the way clear.

This practice causes a good deal of annoyance to the county surveyor, because the presence of these vehicles, in the first place, impedes clearing progress and, secondly, when a way has been cleared, the vehicles may be found to be standing in the centre of the fairway with no-one to move them and, perhaps, nowhere to move them to. The question arises how to prevent or how to make this practice costly to the offenders.

I am aware of the provisions in s. 47 of the Road Traffic Act, 1930, but the procedure under subs. (2) can only be invoked after seven days' notice, and the procedure in subs. (6) may only be invoked "owing to the likelihood of danger to the public or to serious damage to the highway." These latter conditions would not apply to a case such as this.

There are the provisions of reg. 81 of the Motor Vehicles (Construction and Use) Regulations, 1947, namely, that "no person in charge of a motor vehicle shall cause or permit it to stand on a road so as to cause any unnecessary obstruction thereto."

As the notices erected by the county surveyor are of necessity of an informative and helpful nature rather than of the nature of a legal formality, I am wondering whether the provisions of reg. 81 would be applicable to a case such as this, and whether any other means of dealing with the situation can be suggested. FOUR.

Answer.

We think that the practices you mention would probably enable successful prosecution of the offenders concerned on indictment for a public nuisance. We bear in mind the dicta of Lord Greene, M.R., in *Maitland* v. *Raisbeck & Hewitt* (*R. T. & J.*), *Ltd.* [1944] 1 K.B. 689, at pp. 691-692, as to allowing an obstruction to continue for an unreasonable time or in unreasonable circumstances.

If, for example, the driver removes the ignition key or otherwise immobilizes the vehicle and abandons it for an unreasonable time or in an unreasonable manner, we think he could be proceeded against as aforesaid. We think, moreover, that the disregard of the warning signs could be taken into account when assessing whether the circumstances of the obstruction were reasonable or not.

In our opinion, similar considerations would apply to the offence arising under reg. 81 of the Motor Vehicles (Construction and Use) Regulations, 1947, made under the Road Traffic Act, 1930.

3.—Landlord and Tenant—*Local authority as mortgagee in possession—Small Dwellings Acquisition Acts—Application of Rent Restrictions Acts.*

Section 21 of the Housing (Financial and Miscellaneous Provisions) Act, 1946, provides that where a house is for the time being vested in a local authority by reason of the default of any person in carrying out the terms of any arrangements under which assistance in respect of the provision, reconstruction, or improvement of the house has been given under any enactment relating to housing, the house shall be deemed to be one provided under Part V of the Housing Act, 1936. The Rent Restrictions Act, 1939, would not therefore apply to such a house. It appears, however, that this provision does not operate to prevent the Rent Acts applying to houses in respect of which the local authority have made advances under the provisions of the Small Dwellings Acquisition Acts and which have become vested in the local authority, because the object of those Acts is to give assistance in respect of the acquisition of houses and not in respect of their "provision, reconstruction or improvement." Do you agree? DARR.

Answer.

We agree.

4.—Landlord and Tenant—*Defence Regulation* 68CB—*Registered accommodation let on fresh terms.*

A has registered with the local authority under Defence Regulation 68CB one furnished room, together with the use of the bathroom, and the sharing of the kitchen with A at a weekly rent. It has been discovered that A has let the above-mentioned room unfurnished, and your valued opinion is asked as to whether or not the Regulation would still apply to the letting of the room unfurnished, and so still keep the letting outside the provisions of the Rent Restrictions Acts. ECL.

Answer.

The accommodation has, as we understand the query, now been let otherwise than "in accordance with the registered terms and conditions." If so, para. (6) of the Regulation no longer keeps the accommodation outside the Rent Restrictions Acts.

5.—Landlord and Tenant—*Rent Control Act*, 1949, *s.* 1 (3)—*Determination of reasonable rent where permitted increases not passed on to tenant.*

Argument has been made that s. 1 (3) of the 1949 Act comes into play only where the permitted increases have in fact been passed on to the tenant. The learned editors of *Law Notes* advance a similar view in their publication on the Rent Acts. My view is that the tribunal must determine the reasonable rent on the conditions as they find them at the time of their decision, and I feel reinforced in this by the wording of s. 1 (4) of the 1949 Act and the definition of "recoverable rent" in s. 16 of the 1933 Act. Thus I hold that the tribunal should determine the reasonable rent on the factors as they exist at the time, determine and notify the excess whether it has been passed on or not, and by subtraction ascertain their determination of the standard rent. On the other view I have mentioned if, for example, a bathroom has been constructed and the statutory increase not passed on, it would seem the tribunal will be obliged to determine a rent for conditions which they must imagine. May I have the benefit of your opinion, please? CULD.

Answer.

The view first mentioned in the query has been advanced by other writers, but we prefer the view that all permitted increases must be considered, whether or not the landlord is receiving them. The subsection speaks of "the limit imposed by the principal Acts" (which is not the same as a limit imposed by mutual agreement or by the landlord's forbearance or oversight).

6.—Petroleum—*Storage upon premises—What are the same premises.*

I refer to P.P. 16 at 116 J.P.N. 144. The Petroleum Spirit (Motor Vehicles, etc.) Regulations, 1929 (S.R. & O. 1929, No. 952), are made under s. 10 of the Petroleum (Consolidation) Act, 1928, and although these are not necessarily to be read as one, a useful guide is contained in reg. 6 (*b*) of the former, whereby any two storage places not more than twenty feet apart, in the occupation of the same occupier, shall be deemed to be one storage place. A number of local authorities adopt this as a standard in dealing with all applications. A. JULL.

Answer.

We do not deny that this measurement, taken from the regulations, can be a useful guide, but the legal question is essentially different. In the regulations it has to be determined what is a single storage place, and rather than leave this as a question of fact the regulations wisely included the definition quoted in the query. This definition of a term in the regulations cannot control the meaning of a different term in the Act of Parliament under which the regulations are made.

7.—Refreshment Houses Act, 1860—*Whether licence required for converted motor coach snack bar.*

Under s. 6 of the Refreshment Houses Act, 1860, as amended by s. 8 of the Revenue (No. 2) Act, 1861 " A refreshment house " is defined as " All houses, rooms, shops or buildings kept open for public refreshment, resort and entertainment, at any time between the hours of ten of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine or spirits respectively . . ."

From the *obiter dicta* in *Muir* v. *Keay* [(1875) L.R. 10 Q.B. 594 ; 40 J.P. 120] any coffee house which is kept open after 10 *p.m.* and in which seating accommodation is provided for taking refreshments sold therein is a refreshment house and requires to be licensed. In *Howes* v. *Inland Revenue Board* (1876, Exch. Divn.) a shop open only in front and consisting of only one room, where ginger beer and lemonade were sold after 10 *p.m.*, was held to be such a refreshment house, even though no seating accommodation was provided.

In this county borough a man runs a snack bar in a converted motor coach in which refreshments are sold to the public all night after 10 *p.m.* and seating accommodation is provided for eight people at tables. The vehicle is capable of being driven, though its owner has no licence for it. According to the above cases it would appear to be kept open for public refreshment under the Act.

The question at issue, however, is whether, particularly in view of its mobility, this snack bar is a " house, room, shop or building " and therefore must be licensed. It is clearly neither a " house " nor a " room " but might be a " shop " or " building." Unfortunately these terms are not defined in the Act. Under the Shops Act, 1950, s. 74, a " shop " includes any premises where retail trade or business is carried on, and " retail trade or business " includes the sale of refreshments. Attention is also drawn to the case of *Smith (W. H.) & Son* v. *Kyle* (1902) 1 K.B. 286 D.C. Under the Planning Acts also, a " building " seems to include a movable structure such as the one above. In *Stevens* v. *Gourley* (1859) 7 C.B.N.S. 99, a wooden structure intended to be used as a shop, but resting on joists and capable of being transported, was held to be a building under the Metropolis Building Act, 1855.

Would you be good enough to give your opinion as to the following questions :

(i) Can this snack bar be regarded as a refreshment house which requires to be licensed in view of the fact that it opens for the sale and consumption of refreshments after 10 *p.m.* and provides seating accommodation ?

(ii) If no seating accommodation was provided, but the snack bar was kept open after 10 *p.m.*, would it still qualify as a refreshment house ? NETE.

Answer.

So far as we have been able to discover, no such point as this has ever been decided under the Refreshment Houses Act, 1860, but drawing upon cases relating to " temporary buildings " decided under the repealed s. 27 of the Public Health Acts Amendment Act, 1907, in particular *Ruislip-Northwood Urban District Council* v. *Lee* (1931) 95 J.P. 164, we incline to think that this motor coach converted into a snack bar and used in the manner described might be held to be a " building " and, as such, is required to be licensed. *See* answers to practical points at 96 J.P.N. 45 and 100 J.P.N. 658. Therefore, our answers to the particular questions are (i) Yes ; (ii) Yes (*Howes* v. *Inland Revenue* (1876) 41 J.P. 423). Also of interest are an article at 114 J.P.N. 446, and *Lumley's* voluminous notes (11th edn.) to be picked up by the references to *Ruislip-Northwood* v. *Lee*, *supra*.

8.—Road Traffic Acts—*Speed limit—Goods vehicle—No licence under* 1933 *Act—Goods sometimes carried.*

An Austin A.40 wagonette type of motor vehicle was checked on a derestricted road by a police patrol car for a distance of about one mile, and speeds of from forty-eight to fifty miles per hour were recorded. The vehicle was not carrying goods, and was not a licensed vehicle under Part 1 of the Road and Rail Traffic Act, 1933.

The owner-driver told the police officer who stopped him that he thought it was a private vehicle, but that he sometimes used it for the carriage of feeding stuffs in connexion with his business. The Road Fund licence was for private and goods purposes.

There may be sufficient evidence to justify a prosecution against the owner of the vehicle, if the traffic commissioners are satisfied that the vehicle, on the owner's admission, was sometimes used for the carriage of goods without being authorized by a goods licence, but the question on which I would like your opinion is :

Is this a goods vehicle which comes within the terms of para. 2 (1) (*a*) of sch. I of the Road Traffic Act, 1930, which restricts certain types of goods vehicles to a speed limit of thirty miles per hour at all times ?

My opinion is that, at the time the vehicle was stopped, it was not a vehicle authorized to be used under a licence granted under Part 1 of the Road and Rail Traffic Act, 1933, and, on the facts available, not restricted to a speed limit under the first schedule. J. SUPT.

Answer.

This question has caused a good deal of controversy. We dealt with the matter in an article at 115 J.P.N. 758, and the case of *Blenkin* v. *Bell* (1952) W.N. 247 supports the view which we took.

If a goods vehicle is being used for a purpose for which a licence under the 1933 Act is required we do not think that a failure to take out that licence frees the vehicle from the speed limit.

It is clear, also, from the case cited above that if a licensed vehicle is being used for a purpose for which it can lawfully be used without the authority of a licence then the speed limit does not apply.

9.—Territorial Waters—*Jurisdiction of local authority.*

Do you agree that in a maritime county the jurisdiction and responsibility of a county council, save where expressly extended by statute, for example under the Public Health Act, 1936, s. 267 (2), ends at ordinary low-water mark ? I should be greatly obliged if you could refer me to any decisions on the point. BELL.

Answer.

The law is, we believe, as you state it. We examined it at length in an article at 115 J.P. 405, where every relevant decision we had found was mentioned.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

DURHAM COUNTY COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the Castle Eden district.

Applicants must not be less than twenty-three or more than forty years of age, except in the case of whole-time serving officers.

The appointment and salary will be subject to the Probation Rules, 1949-1950, subject to superannuation deductions. The person appointed will be required to provide a motor car for use in connexion with his duties, for which use travelling allowances in accordance with the scheme of the National Joint Council for Local Authorities A.P.T. Services will be payable.

The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with names and addresses of two referees, should be received by the undersigned not later than July 5.

J. K. HOPE,
Secretary to the
Probation Committee.

Shire Hall,
Durham.
June 13, 1952.

WEST RIDING OF YORKSHIRE

Petty Sessional Division of Lower Strafforth and Tickhill (Doncaster)

Appointment of Magisterial Assistant

APPLICATIONS are invited for the above appointment. Applicants should be shorthand-typists, and have had some experience of the routine of a Justices' Clerk's office, including the issue of process and the keeping of the accounts.

Salary will be according to age and experience, and will be under the General Grade I (maximum £425) or Grade II (£445 × 15—£490).

Applications, giving particulars of age, qualifications and experience, should be accompanied by copies of three recent testimonials.

ERNEST W. PETTIFER,
Clerk to the Justices.

West Riding Court House,
Old Station Road,
Doncaster.

COUNTY COUNCIL OF THE WEST RIDING OF YORKSHIRE

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor in the office of the County Prosecuting Solicitor at a commencing salary of £1,000 per annum, rising by increments to a maximum of £1,600 per annum. The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, as amended by the West Riding County Council (General Powers) Act, 1948, and the successful candidate will be required to pass a medical examination. A form of application may be obtained on request and applications should reach the undersigned not later than July 5, 1952.

BERNARD KENYON,
Clerk of the Peace
and County Council.

County Hall,
Wakefield.

COUNTY OF LANCASTER

Petty Sessional Divisions of Leyland and Leyland Hundred

APPLICATIONS are invited for the position of Male Assistant to Justices' Clerk.

Applicants should have had extensive experience in the general duties of a Magistrates' Clerk's Office, and particularly in the keeping of accounts relating to fines, fees, etc., and issue of process for the recovery thereof.

The salary will be in accordance with the N.J.C. scale (A.P.T. II £470—£515).

The appointment is superannuable and subject to medical examination.

Applications, stating age, and particulars of experience, together with two recent testimonials, and endorsed "Assistant", should reach the undersigned not later than June 26, 1952.

JOHN STANTON,
Clerk to the Justices.

Magistrates' Clerk's Office,
14 High Street,
Chorley.

COUNTY BOROUGH OF BURNLEY

Senior Assistant to the Clerk to the Justices

APPLICATIONS are invited for the above whole-time appointment at a salary in accordance with A.P.T. Grade III of the National Joint Council Scales, £500 × £15 to £545 per annum commencing according to age and experience. The post is superannuable and the successful candidate will be required to pass a medical examination.

Applicants should have a wide knowledge of the duties of a Justices' Clerk's office and be able to keep the fines and fees accounts. The successful candidate may also be required to conduct a second court from time to time.

Applications, stating age, experience and qualifications together with copies of not more than two testimonials, must reach me not later than June 30, 1952.

WM. J. C. PERKINS,
Clerk to the Justices.

Borough Justices' Clerk's Office,
Town Hall,
Burnley.
June, 1952.

HAMPSHIRE COMBINED PROBATION AREA

Appointment of an Additional Full-time Female Probation Officer

APPLICATIONS are invited from persons who have had experience and/or training as Probation Officer for the appointment of an additional full-time Female Probation Officer for the above area. Candidates must be not less than 23 nor more than 40 years of age (except in the case of serving officers).

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions.

Applications, giving particulars of age, education, present salary, qualifications and experience, with the names and addresses of not more than three persons to whom reference may be made, should be submitted to the undersigned not later than July 5, 1952. Canvassing, either directly or indirectly, will be a disqualification.

G. A. WHEATLEY,
Clerk to the Probation Committee.

The Castle,
Winchester.
June 10, 1952.

COUNTY OF BRECON

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above-mentioned appointment at a commencing salary which will be fixed within Grade VIII (£735—£810) of the N.J.C. Scales according to experience. Applicants must have had experience in the office of a Clerk of the Peace and Clerk of the County Council. The appointment will be subject to three months' notice on either side and to the provisions of the Local Government Superannuation Act, 1937. The successful applicant will be required to pass a medical examination to the satisfaction of the Council and to devote his whole time to the duties of the office. Forms of application, and any further particulars, may be obtained from the undersigned, by whom completed applications must be received not later than July 5, 1952. Canvassing, directly or indirectly will definitely disqualify the candidate for the appointment. No housing accommodation can be provided by the Council for the successful applicant.

C. M. S. WELLS,
Clerk of the Peace and of the
County Council.

County Hall,
Brecon.

COUNTY BOROUGH OF MIDDLESBROUGH

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited from persons between the ages of twenty-three and forty (except in the case of a serving full-time probation officer) for the appointment of Probation Officer.

The appointment will be subject to the Probation Rules, 1949 to 1952, and the salary according to the scale prescribed thereby, subject to superannuation deductions.

The successful applicant may be required to undergo a medical examination.

Applications, stating age, qualifications and experience, together with copies of not more than three recent testimonials, should be sent to the undersigned not later than July 5, 1952.

THOMAS BELK,
Secretary to the
Probation Committee.

Justices' Clerk's Office,
Magistrates' Court,
Municipal Buildings,
Middlesbrough, Yorks.

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